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Sound Contract Management
Needed at the
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Statement of
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Before the
Subcommittee on Civil Service
Committee on Post Office and Civil Service
House of Representatives



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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss contracting in the Environmental Protection Agency (EPA). As you may be aware, GAO has conducted a number of reviews of EPA's contracting activities over the past several years and has made several recommendations to the Administrator to strengthen EPA's contracting. Consistent with your interest, our presentation will focus on

- trends in EPA's contracting,
- the results of our major contracting reviews at EPA over the last 8 years, and
- the results of several internal EPA evaluations of its activities.

In summary, EPA depends heavily on contractors to complete its mission, and indications are that EPA will continue to use contractors to a large extent in the future. EPA's contract obligations have increased over the years to more than \$1 billion in fiscal year 1988, or about one-third of its budget. Our work has shown numerous weaknesses in EPA's contract management, in such areas as cost controls, subcontractor oversight, and quality of contractor performance. In addition, EPA's internal evaluations of its contracting activities have indicated problems that to a large extent are similar to those we have identified. These efforts have led to EPA's taking a number of initiatives to address its contracting problems. Recent studies by EPA, however, indicate that these initiatives have yet to eliminate the Agency's basic contracting weaknesses. The core problem blocking progress appears to be EPA's continued emphasis on speed in awarding and completing work done under contract with less attention given to sound

contract management. We believe that until a more equitable balance is struck between these two competing demands, EPA will have no assurance that it is getting quality products and services for its money.

I would now like to put EPA's contracting activities and identified weaknesses in their proper perspective and context.

EPA IS HIGHLY
CONTRACTOR DEPENDENT

EPA's dependence on contractor support to accomplish its mission has increased over the last 5 years from \$491 million in fiscal year 1984 to an estimated \$1.2 billion today. For fiscal year 1989, contract obligations account for about one-third of EPA's budget, which is about \$3.4 billion excluding waste water treatment plant construction grants.¹

Most of EPA's contract dollars are in the Superfund program, with estimated obligations at about \$655 million this fiscal year. According to EPA records, 30 contractors accounted for over two-thirds of the contract obligations for fiscal year 1988. These contractors are involved in a broad spectrum of EPA activities, including technical support to EPA program offices for such things as policy analyses, hazardous waste cleanup, automatic data processing support, laboratory operation and maintenance, and program evaluation. Most of these contractors are working under cost-plus-fee-type contracts. Unlike a fixed-price contract in which a price is set for the contracted work--such as Superfund site cleanup construction contracts--a cost-plus-fee contract provides for reimbursement to the contractor for all allowable costs incurred plus a base fee and/or award fee. EPA uses this

¹See attachments II, III, and IV for details on EPA's contracting budget, activity, and staffing.

type of contract extensively because it can be awarded more quickly and it allows EPA a great deal of flexibility in directing the contractor after the contract is awarded. EPA also uses this type of contract because it is well suited for situations in which a large degree of uncertainty exists regarding the work to be accomplished--such as in designing and planning Superfund site cleanups where the extent and nature of pollution are unknown. However, cost-plus-fee-type contracts also carry inherent risks to the government because fewer incentives exist under this arrangement for contractors to control costs.

While EPA's contracting budget has increased, the number of contracts has decreased. For example, in fiscal year 1984 EPA awarded 588 contracts, compared to 375 in fiscal year 1988. According to EPA, these contracts currently range from as small as \$25,000 to about \$300 million. In addition, the number of active contracts has decreased about 16 percent from 1,482 in fiscal year 1984 to 1,246 in fiscal year 1988. While the number of contract awards and active contracts has decreased, the number of contract actions (i.e., contract modifications, change orders, funding increases) during that same period more than doubled from 4,530 to 10,912. According to the Director of EPA's Procurement and Contracts Management Division, the number of contract actions is a better gauge of EPA's contracting activity than the actual number of contracts because contract actions more appropriately reflect the amount of day-to-day staff effort involved in managing a contract.

EPA's contract management staff has also increased in recent years. It grew from a total of 192 full-time equivalents² (FTE) in fiscal year 1984 to 286 in fiscal year 1988--a 49-percent increase. Almost all of the growth was for contract management in the

²An FTE is a personnel position representing the equivalent of one full-time person for one year.

Superfund area. Overall EPA staffing, however, has not increased as dramatically as contract management staff. EPA's overall staffing has increased from 11,415 FTEs in fiscal year 1984 to 14,263 in fiscal year 1988--a 25-percent increase.

The level of overall staff is important to the contracting issue because EPA depends on its program office staff, not its contract management staff, to manage the day-to-day work of its contractors. For example, project officers, who are program office staff in such offices as the Office of Air and Radiation, Office of Water, or the Office of Solid Waste and Emergency Response, are responsible for monitoring the contractor's work, providing technical guidance to the contractor, evaluating contractor performance, and providing feedback to contracting officers on contractor cost, performance, and scheduling. EPA estimates that 32 percent of its professional and administrative employees are directly involved in contract management as project officers or work assignment managers between 10 and 25 percent of the time. EPA also estimates that when it includes supervisory managers and the Procurement and Contracts Management Division staff at least one-half of its professional and administrative employees are involved in some aspect of contract management.

A new EPA contracting initiative, called the Alternative Remedial Contract Strategy, will increase the number of Superfund contracts per year. This strategy will replace the 5 large remedial contracts with 40 or more regional contracts. It will also decentralize more of the contract oversight responsibility by placing contracting officers in the regional offices. As of February 1, 1989, 21 regional contracts have been awarded. EPA believes it will increase the amount of competition and at the same time speed up the process by allowing decisions to be made at the local level rather than at headquarters. In our view, this approach also brings with it the need for even stronger EPA oversight.

EPA CONTRACTING

WEAKNESSES WE IDENTIFIED

Over the last 8 years, we have issued 11 reports focusing on numerous facets of EPA contracting, 8 since 1985.³ These reports have addressed specific contracting issues in programs, such as air, water, and Superfund, as well as contracting EPA-wide. In many of these reports, we identified contract management weaknesses that could result in substandard work being performed for EPA or in increased costs to the government. We also have recommended a number of management improvements to correct these problems. The following discussion highlights our findings from some of these earlier reports.

Two Early Reports

Citing Contract Problems

Our March 1982 and January 1985 reports identified a number of EPA-wide weaknesses in contract management and questioned EPA's reporting on its use of consultants.⁴ For example, we found that in some cases fixed-price contracts would have been more suitable for the work to be performed than the cost-plus-fee contracts that EPA used. Also, EPA had directed that subcontracts be awarded without competition and work be done outside the scope of the contract--which in effect become improper sole-source procurements. In addition, EPA was not adequately preparing cost estimates to evaluate the contractors' work nor closely overseeing the contractors' work performance. Furthermore, EPA did not always receive the product specified in the contract, and the value of

³See attachment I.

⁴EPA's Use of Management Support Services (CED-82-36, Mar. 9, 1982) and The Environmental Protection Agency Should Better Manage Its Use of Contractors (GAO/RCED-85-12, Jan. 4, 1985).

some of the products it did receive was questionable. Finally, EPA may have understated its use of consultants because it used a limited definition of consulting services.

In our opinion, the basic cause of the problems we identified in our earlier reports was EPA's emphasis on speed and flexibility in procuring contract support at the expense of sound contract management controls required by federal procurement regulations. In our 1985 report, we recommended, among other things, that the EPA Administrator increase the priority given to procurement operations, establish procedures for monitoring contracts for cost-effectiveness, and require contract officers to monitor work assignments as required by federal and EPA regulations. As I will discuss later, EPA initiated a contract management improvement program in 1985 to address our concerns.

Recent GAO Report on Superfund

One of our recent reports addressed contract management problems in the \$10.1 billion⁵ Superfund program. Our July 1988 report, which focuses on EPA contracts to assess conditions and design cleanup remedies at Superfund sites, noted several weaknesses that increased contracting costs.⁶ For example, we reported that EPA did not challenge increased costs resulting from inadequate contractor performance, and furthermore awarded substantial performance-based fees to contractors with less than satisfactory performance. EPA also has had limited success in getting contractors to establish acceptable subcontracting

⁵The Superfund program, enacted in 1980, was initially funded at \$1.6 billion. The Superfund Amendments and Reauthorization Act of 1986 provided an additional \$8.5 billion for a total of \$10.1 billion for the program.

⁶Superfund Contracts: EPA Needs To Control Contractor Costs (GAO/RCED-88-182, July 29, 1988).

management procedures, especially subcontract award procedures. This report again concluded that EPA emphasized speed in the contracting process over sound contract management. We recommended, in addition to specific corrective actions, that the EPA Administrator affirm his commitment to cost control by communicating to EPA officials the importance of balancing timeliness, quality, and costs. EPA officials basically agreed with our findings and recently instituted action to implement our recommendations.

EPA's Use of Consultants

On February 3, 1989, we testified before the Subcommittee on Federal Services, Post Office and Civil Service, Senate Committee on Governmental Affairs, on EPA's use of consultants.⁷ We reported that EPA is continuing to understate the extent of its consultant services contracts. In work that we completed in June 1988 on the federal government's use of consultants, we found that EPA identified a maximum of \$10.2 million for consultant contracts in fiscal year 1987. Our analysis of EPA contract files, however, indicated that at least \$168 million was spent on consultant services contracts. The underreporting stemmed largely from ambiguity in the consulting services definition and a more narrow interpretation of the definition by EPA personnel--the same issue we raised in our earlier 1982 report. We plan to revisit this issue at some later point in time to see what changes EPA implements to correct this problem.

⁷The Environmental Protection Agency's Use of Consultants (GAO/T-GGD-89-5, Feb. 3, 1989).

EPA INTERNAL REVIEWS
IDENTIFY CONTRACTING WEAKNESSES

The weaknesses we have pointed out in our contracting reviews are not new to EPA. EPA has conducted a number of internal evaluations of its contracting activities and identified similar weaknesses. For example, the Procurement Review Steering Group in 1982 reviewed several major areas of the procurement process and recommended changes primarily to streamline the process. Among other things, the Group recommended the elimination of unnecessary paperwork and the removal of various levels of review. Although the recommendations generally had merit, they also tended to emphasize speed and flexibility over sound contract management.

EPA's Contract Management Improvement Program was initiated in part as a result of our 1985 report. It focused on four initiatives: (1) increasing contract management resources; (2) strengthening the project officer system; (3) streamlining the contract management process; and (4) improving contracting guidance. In our 1987 report on EPA's program, we noted that EPA had taken several actions including implementing new training requirements for its project officers and adding 55 additional staff to strengthen contract management.⁸ EPA also required contract management criteria in project officer position descriptions and performance standards. The guidance EPA developed included a cost analysis guide to assist in analyzing and monitoring contract costs and a guide for performing contractor purchasing system reviews to assess subcontracting activities. It may take several years to realize the results of some of these initiatives, according to the Acting Director, Procurement and Contracts Management Division, because of the time required to implement new policies and train staff members.

⁸Contracts: Status of EPA's Contract Management Improvement Program (GAO/RCED-87-68FS, Jan. 12, 1987).

The most recent EPA evaluation is a November 1988 contracts management study conducted at the direction of the Assistant Administrator for Administration and Resources Management.⁹ The study concluded that the focus of EPA's senior managers tended to be on contract completion rather than on contract management and that senior managers believe that contracting is a way of life because of the lack of FTEs, lack of Agency expertise, and historical precedent. In addition, many had the perception that the contracting process was working well. On the other hand, however, the study reported that those involved in the day-to-day contract management (primarily project officers and work assignment managers) had identified numerous problems in contract management and did not share the views of EPA senior managers. Moreover, the study found that 78 percent of those involved in managing contractors are either scientists or engineers, with limited knowledge of how to manage contracts. For example, many project officers and work assignment managers said they did not know how to enforce contract provisions. The study reported that EPA needs to balance out the employees' technical skills with essential contract administrative skills. Also, managers at all levels agreed that EPA needs more and better contract management training.

The study also concluded that sound contract management is as important to EPA's mission as is better science, risk-based management, and technology transfer--and that EPA's management consciousness of this must be raised. The study recommended, among other things, that the EPA Administrator, announce this contract management philosophy in a policy statement. EPA has begun to take action on the study's recommendations. We will be following up on the implementation of these recommendations.

⁹Contracts Management: The People and the Process (Nov. 1988).

EPA has also recognized contracting weaknesses through its activities under the Federal Manager's Financial Integrity Act (FMFIA). Under this act, federal agencies must report to the Congress and President each year on the material weaknesses they have identified in their internal control systems. Although EPA has not reported contract management as one of the 16 material weaknesses it has identified during the 6 years of the act, corrective actions taken to remedy identified material internal control weaknesses have included needed improvements in contract management. For example, in fiscal year 1983 EPA reported that more detailed procedures must be developed to strengthen the implementation of the Superfund program and to ensure consistent and effective utilization of Superfund resources. To address this weakness, EPA identified six corrective actions for fiscal year 1984, two of which involved contract management. EPA implemented these actions in 1984 by (1) issuing a guidance manual on how to conduct a proper cost-effective analysis of remedial actions and (2) issuing guidance and procedures to ensure adequate documentation of expenditures. EPA also began visiting regional offices to review cost allocation and recovery procedures.

Under FMFIA, EPA offices also identify weaknesses which, although important, are not considered significant enough to warrant reporting to the Congress and President. For example, in a review of EPA's fiscal year 1988 internal reports, we identified two regional offices and three headquarters offices that reported such weaknesses in contract management. They included a need to improve financial monitoring of contracts, a need to improve surveillance of subcontracting under primary contractors, and inadequate information for evaluation of contractor performance, among others.

According to the Chief of the Management Controls Branch, contract management was one of the issues EPA discussed as a possible material weakness to be included in its fiscal year 1988

report. However, it was not listed as a material weakness because EPA was beginning to take actions on the recommendations contained in its recent contract management study. Also, the Assistant Administrator responsible for overall contract management, who initiated the study and endorsed the implementation of its recommendations, chose not to report contract management as a material weakness.

SUMMARY AND OBSERVATIONS

EPA has placed heavy reliance on contractor support in carrying out its environmental mandates. In using contractors EPA has, however, emphasized getting the job done at the expense of sound contract management practices. This approach has resulted in a number of contract management weaknesses, such as inadequate contract oversight, problems with subcontracting activities, rewarding inadequate contractor performance, heavy reliance on cost-plus-fee contracts, and improper use of sole-source contracts. Also, we believe EPA is understating its use of consultant services contracts.

Although EPA has taken steps to correct its contracting weaknesses on several occasions, recent EPA evaluations indicate these contracting weaknesses still exist. In the future, EPA's reliance on contractors will likely increase. And, should the Congress and Administration carry through with early promises to increase attention to environmental issues, EPA may have to rely on contractors even more, assuming that little or no increase in EPA staffing occurs.

To get the most effective environmental results for the dollar, we believe it is imperative that EPA develop and implement sound contract management practices. EPA's initiatives to strengthen contract management are a step in the right direction. However, we remain concerned that if EPA fails to aggressively

follow up on the implementation of these initiatives, the potential improvements in contract management that could result will be diminished.

Mr. Chairman, this concludes my prepared statement. I will be glad to respond to any questions that you or members of the Subcommittee might have.

GAO REPORTS ON EPA CONTRACTING

The Environmental Protection Agency's Use of Consultants
(GAO/T-GGD-89-5, Feb. 3, 1989)

Superfund Contracts: EPA Needs To Control Contractor Costs
(GAO/RCED-88-182, July 29, 1988)

Superfund: Overview of EPA's Contract Laboratory Program
(GAO/RCED-88-109FS, Mar. 30, 1988)

Superfund: Cost Growth on Remedial Construction Activities
(GAO/RCED-88-69, Feb. 24, 1988)

Air Pollution: EPA's Efforts To Develop a New Model for Regulating Utility Emissions (GAO/RCED-88-57, Jan. 22, 1988)

Internal Controls: EPA Needs To Improve Controls over Change Orders and Claims (GAO/RCED-88-16, Nov. 17, 1987)

Contracts: Status of EPA's Contract Management Improvement Program
(GAO/RCED-87-68FS, Jan. 12, 1987)

The Environmental Protection Agency Should Better Manage Its Use of Contractors (GAO/RCED-85-12, Jan. 4, 1985)

Potential Impacts of Reducing the Environmental Protection Agency's Budget (GAO/RCED-83-75, Dec. 30, 1982)

EPA's Use of Management Support Services (CED-82-36, Mar. 9, 1982)

Agencies Should Disclose Consultants' Roles in Preparing Congressionally Mandated Reports (FPCD-80-76, Aug. 19, 1980)

EPA BUDGET

<u>Fiscal year</u>	<u>Budget obligations^a</u> (Billions)	<u>Total contract obligations</u> (Billions)	<u>Superfund contract obligations</u> (Billions)
1984	\$1.578	\$0.491	\$0.230
1985	1.858	0.621	0.279
1986	1.838	0.597	0.208
1987	2.198	0.999	0.522
1988	3.117	1.037	0.547
1989	3.370 ^b	1.200 ^b	0.655 ^b

^aBudget obligations exclude construction grants, which are given to states and others primarily for waste water treatment plant construction.

^bFiscal year 1989 figures are EPA estimates.

Note: Data provided by EPA.

EPA CONTRACTING ACTIVITY

<u>Fiscal year</u>	<u>Number</u>		
	<u>Contracts awarded</u>	<u>Active contracts</u>	<u>Contract actions^a</u>
1984	588	1,482	4,530
1985	423	1,269	6,145
1986	394	1,277	6,328
1987	425	1,276	8,715
1988	375	1,246	10,912

^aContract actions are processed funded purchase requests, such as negotiated modifications, change orders, cost overruns, and incremental funding.

Note: Data provided by EPA.

<u>Fiscal year</u>	<u>EPA STAFFING</u>	
	<u>Total FTEs^a</u>	<u>Number of contracting FTEs^b</u>
1984	11,415	192
1985	12,415	205
1986	12,892	225
1987	13,442	234
1988	14,263	286
1989	14,720 ^c	309 ^d

^aAn FTE is a personnel position representing the equivalent of one full-time person for one year.

^bContracting FTEs for fiscal years 1984 through 1987 are for EPA's three procurement operations--Research Triangle Park, North Carolina; Cincinnati, Ohio; and Washington, D.C. For fiscal years 1988 and 1989, the contracting FTEs also include the Superfund contracting officers in the regional offices under the Alternative Remedial Contract Strategy.

^cThe fiscal year 1989 figure is the FTE ceiling.

^dThe fiscal year 1989 figure is an EPA estimate.

Note: Data provided by EPA.